



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/991,090 | 11/16/2001 | Stephen P. Vossler | P1758US00 | 4805 |

7590 08/22/2006

GATEWAY, INC.

Attention: Kenneth J. Cool
610 Gateway Drive, MD Y-04
N. Sioux City, SD 57049

EXAMINER

LESNIEWSKI, VICTOR D

ART UNIT PAPER NUMBER

2152

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/991,090 | Applicant(s) VOSSLER, STEPHEN P. | |
| | Examiner Victor Lesniewski | Art Unit 2152 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9,11,13,15-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9,11,13,15-22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed 5/31/2006 has been placed of record in the file.
2. Claims 1, 5, 7, 9, 13, 15-17, 21, 22, and 24 have been amended.
3. Claims 1, 3-7, 9, 11, 13, 15-22, and 24 are now pending.
4. The applicant's arguments with respect to claims 1, 3-7, 9, and 11 have been fully considered but they are not persuasive. A detailed discussion is set forth below.
5. The applicant's arguments with respect to claims 13, 15-22, and 24 have been considered but are moot in view of the following new grounds of rejection.

Response to Amendment

6. Claims have been amended to clarify the usage of the priority determination. The amendment proves a change in scope to independent claims 13 and 21 as these independent claims now explicitly state a priority determination for prioritizing files based on a personal profile and the like. However, none of the amended claims show a patentable distinction over the prior art as evidenced by the following new grounds of rejection.
7. Other independent claims have been amended and may show changes in scope. However, none of independent claims 1, 7, and 9 show a patentable distinction over the previous art of record.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2152

9. Claim 24 remains rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 24 still recites “at least one user” at the end of the claim. See paragraphs 7-9 of the previous rejection dated 3/7/2006 for more detail.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 3-7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang (U.S. Patent Number 6,898,432).

13. Concerning claims 1, 7, 9, and 11, Jiang did not explicitly state executing an additional information transfer that can be completed within the remaining time period. However, Jiang’s system tracks the time period during which communications can be made as well as the time it takes to transfer a first content. Thus, the system clearly maintains the remaining time period, simply the difference. In addition, Jiang’s system utilizes a unified content access layer that optimizes content transfer. It would have been clear to one of ordinary skill in the art that additional content should be transferred in the remaining time if possible as this would clearly optimize the content transfer overall. Thus, it would have been obvious to one of ordinary skill in the art at the time of the applicant’s invention to modify the system of Jiang by adding the

Art Unit: 2152

ability to execute an additional information transfer that can be completed within the remaining time period. See Jiang, column 9, line 51 through column 10, line 3.

14. Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a method are rejected under the same rationale applied to the described claim.

15. Thereby, Jiang discloses:

- <Claims 1 and 11>

An apparatus, comprising: means for establishing communications between a first network and a second network in proximity to the first network (column 5, lines 19-35 and column 10, lines 50-66); means for predicting a time period during which communications between the first network and the second network can be made (column 10, lines 25-34); means for transferring information between the first network and the second network so that said transferring means completes the information transfer within the time period (column 11, lines 8-45); and means for determining whether a remaining time period exists subsequent to said transferring means completing the information transfer within the time period and, if a remaining time period exists, said transferring means executing an additional information transfer that can be completed within the remaining time period (column 9, line 51 through column 10, line 3 and obviousness as discussed above).

- <Claim 3>

An apparatus as claimed in claim 1, the first network comprising at least one of the following structures: a home network, a local area network, a wide area network, a

Art Unit: 2152

vehicle area network, a personal area network, a fabric area network and a world wide network (column 5, lines 19-35).

- <Claim 4>

An apparatus as claimed in claim 1, the second network comprising at least one of the following structures: a home area network a local area network a wide area network, a vehicle area network, a personal area network, a fabric area network, and a world wide network (column 10, lines 50-66).

- <Claim 5>

An apparatus as claimed in claim 1, said predicting means predicting the time period based on at least one of the following: data rate and file priority (column 9, line 51 through column 10, line 3).

- <Claim 6>

An apparatus as claimed in claim 1, in the event at least one of the first network and the second network is a vehicle area network, said predicting means predicting the time period based on at least one of the following: file size, data rate, user preference, file priority, vehicle status, engine status, passenger status, door status, trunk status, hood status, fuel cap status, and garage door status (column 9, lines 1-17).

- <Claim 7>

An apparatus, comprising: a local area network having at least one device communicatively coupled on said local area network (column 10, lines 50-66); means for establishing communications with a vehicle area network having at least one device communicatively coupled in the vehicle area network (column 5, lines 19-35); means for

predicting a time period during which communications between said local area network and the vehicle area network can be made (column 10, lines 25-34); means for transferring information between said local area network and the vehicle area network so that said transferring means completes the information transfer within the time period (column 11, lines 8-45); and means for determining whether a remaining time period exists subsequent to said transferring means completing the information transfer within the time period and, when a remaining time period exists, said transferring means executing an additional information transfer that can be completed within the remaining time period (column 9, line 51 through column 10, line 3 and obviousness as discussed above).

- <Claim 9>

An apparatus, comprising: a vehicle area network having at least one or more devices communicatively coupled on said vehicle area network (column 5, lines 19-35); means for establishing communications with a local area network having at least one or more devices communicatively coupled on the local area network (column 10, lines 50-66); means for predicting a time period during which communications between said vehicle area network and the local area network can be made (column 10, lines 25-34); means for transferring information between said vehicle area network and the local area network so that said transferring means completes the information transfer within the time period (column 11, lines 8-45); and means for determining whether a remaining time period exists subsequent to said transferring means completing the information transfer within the time period and, if a remaining time period is determined to exist, said transferring

Art Unit: 2152

means executing an additional information transfer that can be completed within the remaining time period (column 9, line 51 through column 10, line 3 and obviousness as discussed above).

Since Jiang discloses all of the above limitations, claims 1, 3-7, 9, and 11 are rejected.

16. Claims 13, 17-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang, as applied above, in view of Pyhalammi et al. (U.S. Patent Number 6,996,393), hereinafter referred to as Pyhalammi.

17. Jiang disclosed a communication planning system that enables communication between mobile devices in a vehicle area network and base stations in a local area network when the mobile device is present in the station's coverage area. In an analogous art, Pyhalammi disclosed a content delivery system for mobile devices that optimizes delivery by using delivery classes stored in users' profiles.

18. Concerning claims 13 and 21, Jiang did not explicitly state a priority determination for prioritizing files based on a personal profile of a user. However, Pyhalammi's system utilizes a class of delivery for each piece of content that controls the time when the content is transferred. The class of delivery can be defined by the user and may be stored in a user profile. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Jiang by adding the ability to utilize a priority determination for prioritizing files based on a personal profile of a user as provided by Pyhalammi. Here the combination satisfies the need for a system whereby a user could specify the priority with which

Art Unit: 2152

content is to be delivered to his or her wireless terminal device. See Pyhalammi, column 1, lines 39-45. This rationale also applies to those dependent claims utilizing the same combination.

19. Line citations below refer to Jiang unless otherwise noted.

20. Thereby, the combination of Jiang and Pyhalammi discloses:

- <Claim 13>

A method, comprising: establishing communications between a local area network and a vehicle area network when the vehicle area network enters a communication range of the local area network (column 5, lines 19-35; column 10, lines 50-66; and column 11, lines 32-40); determining a status of the vehicle and communicating the status of the vehicle to the local area network (column 8, lines 30-50); predicting a time period during which the vehicle area network will remain within communication range of the local area network so that communications may occur, said predicting step being based at least in part on the vehicle status determined in said determining step (column 10, lines 25-34); selecting an appropriate file capable of being transferred within the time period predicted in said predicting step (column 11, lines 13-18); transferring the file between the local area network and the vehicle area network during the time period (column 11, lines 8-45); and additionally determining whether a remaining time period exists subsequent to execution of said transferring step within the time period, and if a remaining time period exists, additionally executing said transferring step for an additional file capable of being transferred within the remaining time period (column 9, line 51 through column 10, line 3 and obviousness as discussed in paragraph 13 above), the selecting of said appropriate file being based at least in part on a priority determination for prioritizing files based on a

Art Unit: 2152

personal profile of at least one user so that a file having the highest priority is transferred during the first mentioned time period and a file having the second highest priority is transferred during the remaining time period (Pyhalammi, column 1, lines 52-67 and column 6, lines 46-61).

- <Claim 17>

A method as claimed in claim 13, wherein said selecting step is based at least in part on at least one of the following: file importance and file priority (Pyhalammi, column 1, lines 52-67).

- <Claim 18>

A method as claimed in claim 13, the local area network comprising at least one of the following structures: a home network, a wide area network, a vehicle area network, a personal area network, a fabric area network, and a world wide network (column 10, line 50 through column 11, line 7).

- <Claim 19>

A method as claimed in claim 13, the vehicle area network comprising at least one of the following structures: a home network, a wide area network, a personal area network, a fabric area network, and a world wide network (column 5, lines 19-35).

- <Claim 20>

A method as claimed in claim 13, the local area network comprising at least one of the following structures: a gas station, a truck stop, a residence, a business establishment, a restaurant, a rest area, a tourist stop, a rental car facility, a warehouse, a theater, a service

station, a parking lot, a parking garage, an event stadium, and a shopping mall (column 10, lines 50-66).

- <Claim 21>

An apparatus, comprising: means for establishing communications between a first network and a second network in proximity to the first network (column 5, lines 19-35 and column 10, lines 50-66); means for determining an amount of data to be transferred between the first network and the second network, the amount being based at least in part on a personal profile of at least one user of at least one of the first network and the second network (column 11, lines 13-18 and Pyhalammi, column 1, lines 52-67); and means for transferring information between the first network and the second network based at least in part on the personal profile of at the least one user, said means for transferring the information transfers the information based at least in part on a priority determination for information transfer determined by said determining means from the personal profile of the at least one user so that information having the highest priority is transferred first (column 11, lines 8-45 and Pyhalammi, column 1, lines 52-67).

- <Claim 22>

An apparatus as claimed in claim 21, the personal profile of the at least one user including a schedule of the at least one user (Pyhalammi, column 4, lines 4-25).

- <Claim 24>

An apparatus as claimed in claim 21, wherein the personal profile is of at least two users and wherein said means for transferring information transferring information transfers information based at least in part on a priority of a first one of the at least two users

Art Unit: 2152

relative to another one of the at least two users determined by said determining means from the personal profiles of the first one and the another one of the at least one user (Pyhalammi, column 3, lines 18-33).

Since the combination of Jiang and Pyhalammi discloses all of the above limitations, claims 13, 17-22, and 24 are rejected.

21. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang in view of Pyhalammi, as applied above, further in view of Lightner et al. (U.S. Patent Number 6,636,790), hereinafter referred to as Lightner.

22. The combination of Jiang and Pyhalammi disclosed a communication planning system that enables communication between mobile devices in a vehicle area network and base stations in a local area network when the mobile device is present in the station's coverage area. In an analogous art, Lightner disclosed a wireless diagnostic system for communication between mobile devices and remote host stations that are used to characterize a vehicle's performance.

23. Concerning claims 15 and 16, the combination of Jiang and Pyhalammi did not explicitly state determining the vehicle status or predicting the time period based on one of: engine status, passenger status, door status, trunk status, hood status, and fuel cap status. However, Lightner sets forth an on-board diagnostic system that tracks such variables in the vehicle and sends them back to host computers. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the combination of Jiang and Pyhalammi by adding the ability to determine the vehicle status or predict the time period based on one of: engine status, passenger status, door status, trunk status, hood status, and fuel cap status as provided by

Art Unit: 2152

Lightner. Here the combination satisfies the need for a system that can remotely characterize a vehicle's performance or status. See Lightner, column 2, lines 49-65.

24. Thereby, the combination of Jiang, Pyhalammi, and Lightner discloses:

- <Claim 15>

A method a claimed in claim 13, said vehicle status determining step including obtaining at least one of the following: engine status, passenger status, door status, trunk status, hood status, and fuel cap status (Lightner, abstract and column 6, lines 26-34).

- <Claim 16>

A method as claimed in claim 13, said time period predicting step being based on at least one of the following: engine status, passenger status, door status, trunk status, hood status, and fuel cap status (Lightner, abstract and column 6, lines 26-34).

Since the combination of Jiang, Pyhalammi, and Lightner discloses all of the above limitations, claims 15 and 16 are rejected.

Response to Arguments

25. In the remarks, the applicant has argued:

- <Argument 1>

It would not have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Jiang by adding the ability to execute an additional information transfer that can be completed within the remaining time period.

26. In response to argument 1, it is maintained that it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Jiang by

Art Unit: 2152

adding the ability to execute an additional information transfer that can be completed within the remaining time period. The previous line citation to Jiang, column 9, line 51 through column 10, line 3, states that “The communication manager is in turn responsible for using the best wireless communication method at right place/time for the applications in the right order to attempt to satisfy all the application’s needs.” Thus Jiang explicitly states an optimization of content transfer by the unified content access layer which provides for data transfer at the best place, time, and in the best order. As the applicant admits in the remarks, “The Jiang patent is certainly concerned with ensuring that information is transmitted during a predicted time period.” Further Jiang is concerned with the transferring of more than just one piece of information. For example, Jiang states that the system requests that “a large amount of content be downloaded from the content provider, such as all of the day’s new stories from the Internet edition of a major newspaper” and this is done “within a certain period of time.” See Jiang, column 11, lines 13-18. Clearly, the system downloads multiple pieces of content within the predicted time period. In order to accomplish this within a certain period of time, the data transfer takes place at the best place, time, and in the best order as discussed above. Taking all this into consideration, it is clear that it would have been obvious to one of ordinary skill in the art at the time of the applicant’s invention to execute an additional information transfer that can be completed within the remaining time period as recited in the claims.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to the applicant’s disclosure.

Art Unit: 2152

- Aggarwal (U.S. Patent Number 6,775,298) disclosed a system for transferring data between a handheld device and a network over a wireless communications link that uses priorities when determining the order of transfer.

28. The applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

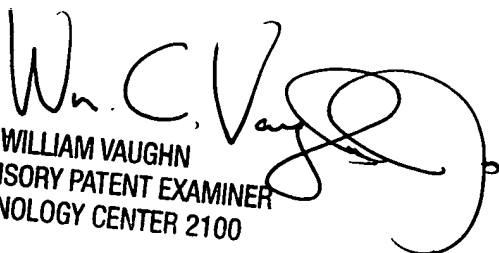
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2152

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Lesniewski
Patent Examiner
Group Art Unit 2152



WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100